

BRACEWELL

January 28, 2019

VIA ECF

Honorable Alvin Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Seabrook, 16 Cr. 467 (AJH)

Dear Judge Hellerstein:

This letter is respectfully submitted on behalf of Norman Seabrook, whom the Court will sentence for honest services fraud crimes on February 8, 2018. As the Court knows, Mr. Seabrook continues to maintain his innocence. This is not the time, however, to relitigate his case. It is the time to demonstrate what has been so extraordinary about his life. See United States v. Adelson, 441 F. Supp. 2d 506, 513 (S.D.N.Y. 2006) (“if ever a man is to receive credit for the good he has done . . . it should be at the moment of his sentencing”). As one supporter writes, “[d]uring his thirty-three year career in the New York City Department of Corrections, Norman Seabrook earned the respect of his peers and served them with diligence and heartfelt compassion, fighting for those who could not fight for themselves.” Letter of Bishop Eric P. Brown.¹ Our hope is that the Court will consider Norman’s lifetime of service and impose a substantially below-

¹ Letters from Norman’s family and supporters are contained in Appendix A to this submission.

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guidelines sentence. See Pepper v. United States, 562 U.S. 476, 487-88 (2011)(“the punishment should fit the offender and not merely the crime”).

A. Early Years

Norman Seabrook was raised in a three-bedroom, five-story walkup in the South Bronx by a single mother. He was one of six boys and two girls. One bedroom was occupied by Norman’s mother and youngest brother; another by his sisters; and the third was shared by Norman and four brothers. At the time, “burnt out buildings were the norm” and the neighborhood was characterized by the “cruelty of poverty and hopelessness.” Letter of Major Reginald K. Seabrook. For Norman’s family, there “were countless days in which issues of water, heat and food were met with uncertainty.” Id. As the oldest boy in the family, “Norman had to make many sacrifices of himself to help support [his mother and siblings].” Id. On the days when there was no water, Norman went to the nearest fire hydrant to fill a bucket so the family could wash-up and bathe. When there was no food, he pushed a shopping cart to a local welfare center to pick up a five-pound can of peanut butter, powdered milk, eggs, and cheese.

Beginning at age ten, Norman took any job he could find. He packed bags at the local supermarket, working for tips. He scraped the meat-cutting blocks at the local meat market, earning \$1.50 per hour and using his pay to purchase ground beef and chicken backs to take home. And he shined shoes at the local barber shop, where he received tips and lessons in haircutting, so he could trim his brothers’ hair.

Norman’s mother Elizabeth held day jobs as a school lunch room attendant and a nurse’s aide. At night, she worked in a factory. His father was what Norman has called a “hit and

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run artist": he would show up from time to time, but was quickly gone. Norman does not recall ever seeing his father at holidays, special events, or the dinner table. Once a month, Norman took an hour-and-a-half train ride from the Bronx to Brooklyn to see his father at work. On those days, his father would take him across the street for a cheeseburger and chocolate shake, and he would give Norman \$50 to take home for the family.

Norman's mother's schedule and his father's absence meant that he and his two older sisters took care of their younger siblings. Norman ensured that they were properly dressed and safe. He cared for them emotionally, providing a voice of optimism when times were bleak. As Norman's youngest brother writes:

I distantly remember one Christmas when I was very young. Our family could not afford a Christmas tree that year. We did however have lights for a tree. We had the lights from a previous year. Norman and my sister Valerie pulled out the lights and tapped [sic] the lights against the wall in the shape of a Christmas tree so that we had the inclusion [sic] of Christmas, even though we had no tree.

Id. Caring for his siblings laid the foundation for Norman's "lifelong commitment to[] sacrificing for others." Id. As Norman explained to his youngest brother, "the reason [he] work[ed] so hard and for so many hours [wa]s so [his brother wouldn't] have to" Id.

B. Teenage Years and Early 20s

Working odd jobs and caring for his siblings took its toll on Norman's schooling. He was expelled from four different New York City high schools due to truancy. At age 15, his mother sent him to the Pius XII home for troubled teens in Chester, New York. While there, he attended classes at the nearby Warwick Valley High School and worked on the feeding line at

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Camp LaGuardia, a shelter for alcoholics. Although he attended Pius XII for only one year, the time had lasting consequence: he met Susan Farina, who became Susan Seabrook five years later.

When he returned to the city, Norman went straight to work. He laid concrete, sold produce, and worked in restaurants. With the encouragement of Susan's mother, he obtained his GED. In 1983, he began working as a dispatcher for a security company. At his mother-in-law's urging, he took the civil service exams for the Department of Corrections, the FDNY, and the NYPD. In 1985, at age 25, he became a corrections officer.

As a corrections officer, Norman was known as "the Go To Guy who ALWAYS assisted the newly assigned officers." Letter of Carolyn R. Lewis. "If you needed instruction in any capacity, writing, alarms, drills, control, you could always call him, [and] he would instruct you in the right direction." Letter of Marie Gallardo; see also Letter of Velma Jackson Newell ("I learned how to do my job efficiently and effectively because of what I learned from watching him."). Norman "encouraged many officers to move up in rank and make better wiser career decisions." Letter of Luz D. Rivera. Norman's generosity extended beyond helping fellow officers with job and career advice. As one former officer writes:

Most new officers did not have cars, so you were at the mercy of the Queens Riker Island Bus #101 to pass security check Point Bridge. If C.O. Seabrook saw you waiting at the bus stop, he always stop[ped] and asked if anyone needed a ride If you were going his way (the Bronx) he [would] take you all the way home. He refused any kind of gratuities for gasoline, bridge, tolls. So much compassion and generosity. . . .

Letter of Marie Gallardo.

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With inmates, Norman was clear, fair, and respectful. In his view, corrections officers “were the face of the department, both in and out of [their] posts.” See Letter of Luz D. Rivera. At orientations, Norman was clear that he “ha[d] a zero tolerance policy for abusing inmates” and that he wanted “all corrections officers to be professional . . . and to do their job professionally.” Interview with City & State, Oct. 2015, <https://www.youtube.com/watch?v=QOn2IHvZINY>. One supporter writes: “Norman . . . was not timid when it came to confrontations but by not endorsing or succumbing to the mob mentality . . . he saved many people, inmates and staff, from the consequences of unrestrained violence and brutality.” Letter of Lawrence Vann.

C. COBA

1. Election

In 1993, after eight years as a corrections officer, Norman ran for President of the Correction Officers’ Benevolent Association (“COBA”), the union that represents the more than 20,000 active and retired New York City corrections officers. He felt strongly that corrections officers were being shortchanged, and that he could do a better job than the incumbent union leaders. He put together a slate called “The Coalition,” which ran on a platform of 20 initiatives, with restoring respect for corrections officers as its ultimate goal. See “Digging Out of Mess in NY’s ‘Toughest Precinct,’” The Chief, Jan. 13, 2017; COBA News, Sept. 1996. The election was bitterly contested, with five candidates running against the incumbent; The Coalition won by some 1,000 votes.

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2. First Term (1995-1999)

After their victory, the new board members discovered that they had to rebuild the union almost from scratch. COBA's lower Manhattan offices had "no furniture" and little membership information except for "a box of index cards." The newly elected treasurer found himself "running around to different banks to find out which banks had [COBA's] funds in them." "Digging Out of Mess in NY's 'Toughest Precinct,'" The Chief, Jan. 13, 2017. Norman and his fellow board members quickly went to work. In their first year, they implemented almost all of the 20 initiatives that they had promised during the campaign. They organized mandatory training classes for union delegates; issued quarterly financial statements; retained counsel to represent officers facing departmental or criminal charges; established a 24-hour hotline that made a board member available to members around the clock; hired certified professionals to help COBA members address alcoholism, divorce, child care, and trauma; moved COBA meetings to Queens to increase attendance; established a monthly newsletter; and offered seminars on pension, retirement, and health benefits. See COBA News, Sept. 1996.²

Norman made sure that COBA's "political power [was not] squandered." Id. He worked with Albany legislators to draft bills that were favorable to corrections officers and established a PAC that registered more than 100,000 voters. Id. He also launched a public relations campaign, vowing "to speak out on behalf of correction officers and their families" so that "[t]he correction officer [would] never be taken for granted again" and would achieve "total

² Cited COBA News documents can be found at <https://www.cobanyc.org/magazine>.

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parity with . . . other law enforcement officers.” COBA News, Oct. 1996; COBA News, Nov./Dec. 1999. In Norman’s words to his members: “Parity is our goal, and parity we shall achieve.” COBA News, Mar. 1998.

Norman’s efforts quite literally paid benefits. Before the end of his first term, he had succeeded in persuading the legislature to pass seven bills that improved the lives of corrections officers, including: (1) a Heart Bill that made corrections officers diagnosed with heart disease eligible for a 75 percent disability pension, the same coverage provided to police officers and firefighters; (2) a 3/4 Disability Bill that raised the percentage of disability pay for corrections officers who incur line-of-duty injuries to 75 percent of salary from 33½ percent, bringing disability pay into line with police officers and firefighters; (3) a Vehicle Accident Privacy Bill that gave corrections officers the same rights as police officers and firemen not to disclose personal contact information when involved in accidents while driving official vehicles; (4) a Feces Bill that made it a crime for inmates to throw fecal matter at corrections officers; and (5) a Pension Reopener Bill that opened a six-month window for corrections officers to buy into the 20-year employee pension plan. COBA also took steps to “take care of its own.” It launched a retiree unit to answer questions from, and provide programs for, retirees. It established a scholarship fund for members’ children. And it created a widows and orphans fund to provide assistance to the families of officers who died on active duty.³

³ Since its inception, COBA’s scholarship fund has provided nearly \$1 million in \$1,000 scholarships to members’ children for kindergarten through college. “Digging Out of Mess in NY’s ‘Toughest Precinct,’” The Chief, Jan. 13, 2017. The widows and orphans fund provides

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The membership recognized how much was accomplished so quickly. One officer wrote to Norman:

The biggest regret I have about your position with COBA is that you didn't start earlier. I can picture how much better things would have been. For almost 22 years I saw one lousy President after the other, making all kinds of promises. The only one to keep those promises has been you, and the best Executive Board we have ever had. Don't slow down. Full speed ahead.

Ltr. of A.Q., COBA News, May 1998. Another wrote: "I am so pleased and thankful for your continued policy to follow through on your promises. It is a refreshing burst of energy & hope that is felt deep in our hearts knowing you did not forget." Ltr. of M. Lockwood, COBA News, Mar. 1997. And another wrote: "I am a 14-year veteran, and I can say that you have done more for COBA's members in one term than the previous COBA did in 10 years." Ltr. of R. Rivera, COBA News, Nov./Dec. 1998.

Just as important as the benefits was the sense of pride that Norman inspired. One officer put it this way, "I heard you last year on talk radio You were great and I felt really proud to be a Correction Officer. . . . We . . . patrol the toughest precincts in New York City. We're finally getting the recognition that all Correction Officers deserve." Ltr. of S. Rapisardi, COBA News, June 1997.

families of deceased members with \$250 for Thanksgiving dinner and \$500 as a holiday gift for each spouse and child.

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3. Later Terms (2000-2016)

Norman was re-elected COBA President five times. He was sometimes brash, but he was always effective. (Trial Tr. 10/25/2017 320:9-15 (testimony of Elias Husamudeen characterizing Norman's leadership as "effective").) In 1998, he stormed a prison privatization conference, shouting "Privatization will not happen as long as we have breath in our bodies." COBA News, Mar. 1998. A few years later, New York passed legislation requiring that "maintaining the custody . . . of persons detained . . . in any [correctional] facility in . . . New York City. . . be performed by members of the uniformed force." COBA News, Sept./Oct. 2002. The legislation gave corrections officers job security and ensured that the City's jails would not be run for profit.

For Norman, the safety of his officers was paramount. When Mayor DeBlasio appointed Joseph Ponte Corrections Commissioner, Norman held a conference and read from The Cat in the Hat to express his view that Ponte was not up to the job. See "Correction Officers Union Chief Norman Seabrook Mocks Incoming Boss as Softie," N.Y. Daily News, Apr. 3, 2014. A year later, he led corrections officers in depositing a coffin in front of City Hall to send the message that "[s]omeone is going to die at the hands of an inmate . . . because of . . . inadequate staffing levels." "Correction Officers: 'Someone Is Going To Die at Rikers,'" New York Post, Mar. 9, 2015.

The gains Norman achieved for corrections officers were stunning. He sought parity and achieved it. He championed Variable Supplement Fund and Defined Benefit legislation that provides retired corrections officers an annual lump-sum payment of \$12,000, on par with

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police officers and firefighters. He promoted an accidental death benefit that provides 100 percent of the deceased officer's salary to his or her surviving spouse. He won legislation that allows corrections officers to stop paying a management charge on their pension contributions after 20 years' service. He fought for and gained legislation that provides medical coverage for surviving spouses. He obtained legislation that altered the Department's system of rotating shifts, thereby permitting officers to stabilize their schedules. And he lobbied successfully for laws benefitting officers who had served in the military or responded on 9/11. See COBA News, Jan./Feb. 2010 & Oct./Nov./Dec. 2006.

Perhaps of greatest importance, Norman succeeded in negotiating contracts with the City that brought pay for corrections officers into parity with police officers and firefighters. Under his leadership, corrections officers experienced salary increases of more than 50 percent. See COBA News Mar./Apr. 2008; see also Letter of Sidney Schwartzbaum, The Chief, Mar. 23, 2012 ("I say without reservation that Norman Seabrook and his executive board have done more to benefit the financial welfare of all ranks within the Correction Department than anyone in my 33 years with this agency."). Corrections officers were not the only ones who benefitted. In 2001, as Vice Chair of the Uniformed Forces Coalition, Norman successfully negotiated a 10 percent raise over two-and-a-half years for firefighters, sanitation workers, and certain police officers, in addition to correction officers.⁴ See "Contract Deal for Workers in Uniform," N.Y. Times, Jul. 28, 2001.

⁴ Recognizing Norman's leadership and negotiation skills, Governor Pataki appointed Norman to the New York State Task Force on Domestic Violence in 1998; the Task Force To

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Norman's focus extended beyond the welfare of his members. After Hurricane Katrina, at his direction COBA sent a disaster relief team of 120 corrections officers to New Orleans. The officers brought in food and supplies and assisted local corrections officers in transforming a Greyhound bus station into a makeshift jail. See COBA News, Nov./Dec. 2005. When Superstorm Sandy devastated parts of New York, Norman arranged for corrections officers to deliver canned goods, bottled water, and blankets from Rikers Island warehouses to local residents. They also gathered sheets, blankets, and towels from shelters and laundered them at Rikers. On Thanksgiving that year, Norman and COBA members handed out more than 500 hot dinners to needy residents of the Rockaways. See COBA News, Dec. 2012. Led by Norman, COBA also provided disaster relief in Puerto Rico, Haiti and the Dominican Republic.

On September 11, 2001, Norman made sure that corrections officers came to the aid of the City. Under Norman's leadership, corrections officers set up a makeshift morgue at Bellevue and worked round-the-clock "do[ing] the physically taxing and heart-rending job of unloading body bags off of trucks and bringing them in for . . . examinations." "Jail Officers Take On Grueling Task," The Chief, Sept. 21, 2001. Norman was there "on site . . . to aid the city and country . . . in any way he could." Letter of Peter G. Curcio. Norman described the work this

Reform New York State and New York City Elections in 2001; and the Board of the MTA in 2006. See COBA News, Apr. 1998 & Nov./Dec. 2006. In 2002, President George W. Bush appointed Norman to the President's Commission on the United States Postal Service. See White House Press Release, Dec. 11, 2002, <https://georgewbush-whitehouse.archives.gov/news/releases/2002/12/20021211-2.html>.

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way: “it’s just heart-breaking. You can’t imagine the things we’ve seen.” “Jail Officers Take On Grueling Task,” The Chief, Sept. 21, 2001.

4. Devotion to COBA Members

What distinguished Norman most as a union leader was his devotion to the welfare of individual officers. As he wrote in December 2000: “I don’t care if it’s one Correction Officer or a thousand Correction Officers, I will fight for them all.” COBA News, Dec. 2000. Fight he did. When the City laid-off over 200 corrections officers, Norman fought for their return and the restoration of pay and seniority rights. See COBA News, Aug. 2007 (“315 Correction Officers Completely Restored”). When officers were injured, he fought for their care. The letter of Assistant Deputy Warden Steven Haimowitz is telling:

I was a Tour Commander in . . . a jail facility on Rikers Island in 2010 [when] we had a multiple assault on staff by approx. 20 inmates. . . . [Norman was] the only Union President to respond to this major incident. Norman immediately questioned how all staff were doing. Not just the Officers he represented but titles above them too. What I respected most . . . was that he would not take no for an answer making sure all Correction Staff, Officers and Captains (although they were not his union) received immediate medical treatment for their injuries. He would not leave the facility until he was 100% happy that all staff were attended to. I never forgot the care he had for all staff that evening and . . . that everybody, no matter who you [were] matter[ed].

Letter of Steven Haimowitz. See also Letter from J.D. Smith, COBA News, Apr. 1998 (describing Norman visiting injured officers in the hospital and “g[iving] them money out of [his] pocket for some food and drinks”).

When officers passed away, Norman grieved with their families and spoke at their funerals. In the words of one letter writer:

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I remember one incident in particular when a young officer from one of the facilities had ingested some peanuts hidden in some chocolates that had been given to him at one of the jails and he . . . sadly passed away at the hospital. . . . I observed Mr. Seabrook embrace the family, pray with them . . . and then strongly persuade the mayor that this stricken family was important and the mayor subsequently did arrive at the hospital to the great comfort of the family. . . . Mr. Seabrook then proceeded to stay with the family as I left the hospital late in the night to be with mine. The very next morning . . . , to my surprise, [he] was still with the family, unshaven and obviously exhausted but this example of his deep care and compassion is just part of his fabric. . . .

Letter of Peter G. Curcio. See also Letter of Jimmy Watt, COBA News, Aug. 1997 (thanking Norman for “all of the help and concern you gave to me and my family in our time of need”); letter of Eva M. Rivera (“I first met Mr. Seabrook when . . . I attended a Correction Officer’s funeral . . . [and] I saw how compassionate and supportive he was towards the deceased’s family and coworkers”); letter of Steven Haimowitz (“when a Correction Officer was killed in the line of duty in California in 2004 [Norman] immediately assembled a contingent of staff willing to volunteer . . . to fly to California What immediately struck my heart was [his] compassion in caring for the officer’s family.”).⁵

D. Family

Norman and his wife Susan have two daughters, Jenna and Tiffany, now ages 33 and 31. They taught their daughters to respect others and the value of hard work. See Letter of Tiffany Peluso. As Tiffany writes, her father told her to “be nice to people because you can meet the same people on the way up as you meet on the way down”; “the man at the top is just as

⁵ Under Norman’s watch, life insurance for active COBA members also increased from \$50,000 to \$250,000.

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important as the man cleaning the floors.” Id. It is a credo that Norman has lived by and has imbued in his children.

Jenna and Tiffany saw Norman “sacrifice[] and work tirelessly to fight for the men and women in uniform and ensure they were treated with respect, honor, and dignity.” Id. They watched as he went to Rikers on Thanksgiving and Christmas, and got out of bed at four in the morning because an officer had been injured. See Letter of Jenna St. Luce (“I saw my dad give 110% at his job. Because of his example, I now give 110% at mine.”). Norman cares enormously about Susan and his daughters, and they about him. As Jenna puts it, “what we care about in my family is family.” Letter of Jenna St. Luce. The last two years have been difficult ones in the Seabrook family, but it has brought them closer.

E. Post-Arrest Conduct

After his arrest, Norman was suspended as COBA’s President, and, once convicted, he was terminated by COBA and the Department of Corrections. Unable to fight for his members, he has focused his attention on caring for his grandchildren in ways that he couldn’t before. As Tiffany writes:

Now that my dad has more time, he has become devoted to his grandkids. He helps take my son and daughter to school and pick them up. He and my mom watch them if I have to work late. Only a few weeks ago, he fought through the snow to bring pizza to my son’s school Thanksgiving celebration. As much as my father has been a hero to me, he is now a hero to them.

Letter of Tiffany Peluso.

Norman also serves as an active member of his church. See Letter of Susan Seabrook (“Faith in God has always been a large part of Norman’s life.”) In recent years, he has

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worked closely “with the young men [at his church] who do not have a father figure in their lives” and has “helped them to develop positive esteem.” Letter of Pastor Kenneth R. Seabrooks. He works to improve the relationship between the local police and the community. See Letter of Deborah Dancy. To his fellow church members, Norman is a role model: “he is truly an exemplar of love and what it means to be a leader secularly and spiritually.” Id.

F. Sentencing Guidelines

We agree with the government and the Probation Department that the applicable guideline is USSG § 2B4.1, which carries a base offense level of 8. That base offense level is subject to an increase based on the “greater of value of the bribe or the improper benefit to be conferred.” Platinum earned between \$550,000 and \$1,500,000 in fees on the COBA investments, resulting in a 14-point increase. There is also a two-point enhancement for Abuse of a Position of Trust under USSG §3B1.3, which brings Norman’s total offense level to 24, with a guideline range of 51-63 months. We do not dispute this calculation.

G. Restitution

We do not believe an order of restitution against Norman is warranted. The Mandatory Victims Restitution Act requires that a victim be “directly and proximately harmed” by an offence before restitution may be imposed. 18 U.S.C. § 3663A(a)(2). When COBA invested in Platinum, Norman was unaware that more than two years later the fund would fail. Three government witnesses -- Gilad Kalter, Thomas Reynolds, and Jona Rechnitz -- testified that they believed that Platinum was financially sound and had no “inkling” it would ultimately file for

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bankruptcy.⁶ Norman had no greater knowledge of Platinum's financial health than those witnesses. As the Court knows, six former Platinum executives are under indictment in the Eastern District of New York for defrauding investors in connection with the PPVA fund.⁷ The cause of Platinum's bankruptcy will be the subject of that trial. Whatever its cause, Norman should not be held responsible for Platinum's failure. See U.S. v. Speakman, 594 F.3d 1165, 1172 (10th Cir. 2010) (intervening causes can break the chain of causation under the MVRA).

H. Conclusion

Norman's conviction has already taken a heavy toll on him. He spent a lifetime raising himself from a boy filling buckets with water in the South Bronx to being one of the most successful labor leaders in New York City's history. The reputation that he worked so hard to create is forever tarnished. He lives with the shame of knowing that the union's annuity fund lost money because of an investment he promoted. See United States v. Stewart, 590 F.3d 93, 141 (2d Cir. 2009) ("the conviction itself already visited substantial punishment on the defendant"). What

⁶ When asked, "I'd be correct that when you spoke to COBA in January of 2014, you didn't have any inkling at all that there was a bankruptcy likely two years later," Gilad Kalter, a former Platinum employee responded, "I had none. I had no inkling." (Tr. 330:25-331:8.) Similarly, COBA's financial advisor, Thomas Reynolds, testified that at the time of COBA's investment, he did not suspect in any way that the PPVA fund might go bankrupt. (Tr. 451:11-20.) And, when asked of his understanding of Platinum's financial health, Mr. Rechnitz responded: "At the time I thought it was a financially sound company." (Tr. 642:15-17.)

⁷ That indictment alleges that Platinum executives fraudulently "overvalued some of PPVA's [] assets in order to . . . boost performance numbers" and "attract new investors." Indictment, *United States v. Nordlicht, et al.*, 16 cr. 460 (E.D.N.Y.), at ¶ 42. The overvaluation resulted in a "severe liquidity crisis" that caused Platinum to "selectively pay[] some investors ahead of others, contrary to the terms of its governing documents." Id.

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is beyond dispute is that, in his 20 years as COBA President, Norman Seabrook dedicated himself to his officers, fought on their behalf, and achieved extraordinary results for them. Few labor leaders have done so much for their members and their communities. Norman Seabrook will continue to fight to prove his innocence. We recognize that a jury has found him guilty of a serious breach of trust. We hope, however, that a wise judge will take into account Norman's extraordinary achievements and conclude that a harsh sentence is not needed to serve justice.

Respectfully submitted,

/s/ Paul Shechtman

Paul Shechtman
Maggie Lynaugh

PS/ML:wr